

**Senate File 32 - Reprinted**

SENATE FILE 32

BY ZAUN

(As Amended and Passed by the Senate February 1, 2017)

**A BILL FOR**

1 An Act relating to private sector employee drug testing.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 730.5, subsection 1, paragraphs b and k,  
2 Code 2017, are amended to read as follows:

3 *b. "Confirmed positive test result"* means, except for  
4 alcohol testing conducted pursuant to [subsection 7](#), paragraph  
5 "f", subparagraph (2), the results of a hair, blood, urine, or  
6 oral fluid test in which the level of controlled substances or  
7 metabolites in the ~~specimen~~ sample analyzed meets or exceeds  
8 nationally accepted standards for determining detectable levels  
9 of controlled substances as adopted by the ~~federal~~ United  
10 States department of health and human services' substance abuse  
11 and mental health services administration. If nationally  
12 accepted standards for ~~oral fluid~~ tests on a particular  
13 specimen have not been adopted by the ~~federal~~ United States  
14 department of health and human services' substance abuse and  
15 mental health services administration, the standards for  
16 determining detectable levels of controlled substances for  
17 purposes of determining a confirmed positive test result shall  
18 be the same standard that has been ~~established~~ cleared or  
19 approved by the ~~federal~~ United States department of health and  
20 human services' food and drug administration for the ~~measuring~~  
21 ~~instrument used to perform the oral fluid test~~ particular  
22 specimen testing utilized.

23 *k. "Sample"* means such sample from the human body capable  
24 of revealing the presence of alcohol or other drugs, or their  
25 metabolites, which shall include only hair, urine, saliva,  
26 breath, and blood. However, "sample" does not mean blood except  
27 as authorized pursuant to [subsection 7](#), paragraph "l".

28 Sec. 2. Section 730.5, subsection 7, paragraphs a and b,  
29 Code 2017, are amended to read as follows:

30 *a.* The collection of samples shall be performed under  
31 sanitary conditions and with regard for the privacy of the  
32 individual from whom the ~~specimen~~ sample is being obtained and  
33 in a manner reasonably calculated to preclude contamination or  
34 substitution of the ~~specimen~~ sample. If the sample collected  
35 is hair which would entail removal of an article of clothing

1 or urine, procedures shall be established to provide for  
2 individual privacy in the collection of the sample unless there  
3 is a reasonable suspicion that a particular individual subject  
4 to testing may alter or substitute the hair or urine specimen  
5 sample to be provided, or has previously altered or substituted  
6 a hair or urine specimen sample provided pursuant to a drug  
7 or alcohol test. For purposes of this paragraph, "*individual*  
8 *privacy*" means a location at the collection site where hair  
9 collection or urination can occur in private, which has been  
10 secured by visual inspection to ensure that other persons are  
11 not present, which provides that undetected access to the  
12 location is not possible during hair collection or urination,  
13 and which provides for the ability to effectively restrict  
14 access to the location during the time the specimen sample  
15 is provided. If an individual is providing a hair or urine  
16 sample and collection of the hair or urine sample is directly  
17 monitored or observed by another individual, the individual who  
18 is directly monitoring or observing the collection shall be of  
19 the same gender as the individual from whom the hair or urine  
20 sample is being collected.

21 *b.* Collection of a urine sample for testing of current  
22 employees shall be performed so that the specimen sample is  
23 split into two components at the time of collection in the  
24 presence of the individual from whom the sample ~~or specimen~~  
25 is collected. The second portion of the ~~specimen or~~ sample  
26 shall be of sufficient quantity to permit a second, independent  
27 confirmatory test as provided in paragraph "*i*". ~~The~~ If the  
28 sample is urine, the sample shall be split such that the  
29 primary sample contains at least thirty milliliters and the  
30 secondary sample contains at least fifteen milliliters. Both  
31 portions of the sample shall be forwarded to the laboratory  
32 conducting the initial confirmatory testing. In addition to  
33 any requirements for storage of the initial sample that may be  
34 imposed upon the laboratory as a condition for certification  
35 or approval, the laboratory shall store the second portion of

1 any sample until receipt of a confirmed negative test result or  
2 for a period of at least forty-five calendar days following the  
3 completion of the initial confirmatory testing, if the first  
4 portion yielded a confirmed positive test result.

5 Sec. \_\_\_\_\_. Section 730.5, subsection 7, Code 2017, is amended  
6 by adding the following new paragraph:

7 NEW PARAGRAPH. *0e.* Testing of a hair sample shall be  
8 limited to samples not longer than one and one-half inches.  
9 Testing of a hair sample shall be limited to the portion of the  
10 hair that was closest to the skin.

11 Sec. 3. Section 730.5, subsection 7, paragraph f,  
12 subparagraphs (2) and (3), Code 2017, are amended to read as  
13 follows:

14 (2) Notwithstanding any provision of [this section](#) to the  
15 contrary, alcohol testing, including initial and confirmatory  
16 testing, may be conducted pursuant to requirements established  
17 by the employer's written policy. The written policy shall  
18 include requirements governing evidential breath testing  
19 devices, alcohol screening devices, and the qualifications  
20 for personnel administering initial and confirmatory testing,  
21 which shall be consistent with regulations adopted as of  
22 ~~January 1, 1999~~ July 1, 2017, by the United States department  
23 of transportation governing alcohol testing required to be  
24 conducted pursuant to the federal Omnibus Transportation  
25 Employee Testing Act of 1991.

26 (3) Notwithstanding any provision of [this section](#) to the  
27 contrary, collection of an oral fluid sample for testing shall  
28 be performed in the presence of the individual from whom the  
29 sample ~~or specimen~~ is collected. The ~~specimen or~~ sample shall  
30 be of sufficient quantity to permit a second, independent,  
31 confirmatory test as provided in paragraph "i". In addition to  
32 any requirement for storage of the initial sample that may be  
33 imposed upon the laboratory as a condition for certification  
34 or approval, the laboratory shall store the unused portion of  
35 any sample until receipt of a confirmed negative test result or

1 for a period of at least forty-five calendar days following the  
2 completion of the initial confirmatory testing, if the portion  
3 yielded a confirmed positive test result.